

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICA FIRST POLICY INSTITUTE,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY

Defendant.

Civil Action No. 4:23-cv-01039-P

JOINT MOTION TO AMEND SCHEDULING ORDER

Counsel for Plaintiff America First Policy Institute (“AFPI”) and Defendant the United States Department of Homeland Security (“DHS”) jointly move to amend the Court’s Scheduling Order dated January 31, 2024 (Doc. 15) to extend all case deadlines by 60 days in order to accommodate anticipated settlement of this matter.

Plaintiff AFPI brought this case under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking to compel Defendant DHS to make determinations and produce records regarding three FOIA requests by AFPI. (Doc. 1). DHS has been making regular productions of responsive, non-exempt documents to AFPI and has now produced all records in its possession except for 78 pages of records that were required to be referred to other agencies for consultation. *See* 5 U.S.C. § 552(a)(6)(B)(iii)(III) (providing for an extension of time to respond to FOIA requests where there is a “need for consultation . . . with another agency [or among two or more agency components] having a substantial interest in the determination of the request.”); *see also* OIP

Guidance: “Referrals, Consultations, and Coordination: Procedures for Processing Records When Another Agency or Entity Has an Interest in Them.”¹

DHS has followed up with the other relevant agencies to inquire about the status of their review, but how quickly they process the documents is outside of DHS’ control. DHS expects that their review will be completed within the next 60 days. Upon production of the remaining 78 pages, all responsive, non-exempt records will have been produced and the parties anticipate reaching a settlement shortly thereafter.

Therefore, the parties respectfully request that the Court amend the current Scheduling Order to extend all case deadlines by 60 days pending anticipating resolution of this case. A proposed scheduling order reflecting the amended dates is simultaneously being emailed to the Court’s proposed orders email address.

¹ Available at <https://www.justice.gov/oip/blog/referrals-consultations-and-coordination-procedures-processing-records-when-another-agency> (last updated July 26, 2021).

Dated: August 12, 2024

Respectfully Submitted,

/s/ Jase Panebianco
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